

MONTANA LEGISLATIVE HISTORY

Chapter 453 19 83

Bill H 169 S _____ Original bill & history C

H. Committee on State Administration

Hearing Date(s) Jan 18 ☒ C

Jan 20 ☒ C

_____ C

_____ C

Date Out Jan 20 ☒ C

S. Committee on State Administration

Hearing Date(s) Mar 03 ☒ C

Mar 11 ☒ C

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Mar 11 ☒ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

TRANSMITTED TO SENATE: 1/21/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 01/22/83
HEARING: 3/2/83
REPORT: 3/2/83, BE CONCURRED IN
2ND READING: 03/04/83 AYES: 47; NAYS: 0
3RD READING: 03/07/83 AYES: 46; NAYS: 0

RETURNED TO HOUSE: 3/7/83

TRANSMITTED TO GOVERNOR: 03/15/83
SIGNED: 3/18/83, CHAPTER 131

HB 168 -- PISTORIA, PAVLOVICH, FARRIS, ET AL. -- TO LOWER THE LIQUOR EXCISE TAX; TO RAISE THE LIQUOR LICENSE TAX; AND TO CHANGE THE PERCENTAGE ALLOCATIONS OF THE LIQUOR LICENSE TAX REVENUE; AMENDING SECTIONS

INTRODUCED: 01/11/83
REFERRED TO COMMITTEE ON TAXATION: 01/11/83
HEARING: 1/18/83
REPORT: 01/25/83, DO NOT PASS
REREFERRED TO COMMITTEE ON TAXATION: 01/26/83
REPORT: 02/03/83, DO NOT PASS, AS AMENDED
OBJECTION: 2/4/83
2ND READING: 03/12/83, DO NOT PASS AYES: 47; NAYS: 42
2ND READING: 03/15/83, DO NOT PASS AYES: 60; NAYS: 38
BILL KILLED

HB 169 -- EUDAILY, DAILY, SCHULTZ, ET AL. -- CLARIFYING AND REVISING THE DEFINITION OF EARNED COMPENSATION FOR THE TEACHERS' RETIREMENT SYSTEM; AMENDING SECTION ...; AND PROVIDING AN EFFECTIVE DATE.

BY REQUEST OF: THE TEACHERS' RETIREMENT DIVISION

INTRODUCED: 01/11/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 01/11/83
HEARING: 1/18/83
REPORT: 01/20/83, DO PASS, AS AMENDED
2ND READING: 01/24/83, DO PASS AYES: 94; NAYS: 2
3RD READING: 01/26/83, DO PASS AYES: 94; NAYS: 2

TRANSMITTED TO SENATE: 1/26/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 01/27/83
HEARING: 3/3/83
REPORT: 03/12/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/16/83 AYES: 48; NAYS: 0
3RD READING: 03/18/83 AYES: 50; NAYS: 0

RETURNED TO HOUSE WITH AMENDMENTS: 03/18/83
2ND READING: 03/30/83, BE CONCURRED IN AYES: 83; NAYS: 1
3RD READING: 03/31/83, BE CONCURRED IN AYES: 93; NAYS: 0

TRANSMITTED TO GOVERNOR: 04/08/83
SIGNED: 04/12/83, CHAPTER 453

HB 170 -- PISTORIA, MANNING -- TO ADD TO THE LIST OF PLACES TO WHICH AN INTOXICATED PERSON MAY BE TAKEN FOR HELP; TO PROVIDE THAT PERSONS AIDING INTOXICATED PERSONS ARE NOT CIVILLY LIABLE IF THEY ACT WITHIN THE SCOPE OF THE LAW; AMENDING SECTION

MINUTES OF THE MEETING OF THE HOUSE STATE ADMINISTRATION COMMITTEE
January 18, 1983
Page Three

THERE BEING NO FURTHER QUESTIONS FROM THE COMMITTEE MEMBERS, CHAIRMAN BRAND CLOSED THE HEARING ON HOUSE BILL 173.

HOUSE BILL 169

Chairman Brand called for testimony about House Bill 169 by calling on its sponsor, REPRESENTATIVE RALPH EUDAILY. Rep. Eudaily said the bill was introduced at the request of the Teachers' Retirement System and would redefine the definition of earned compensation for the purposes of computing retirement benefits. He said the bill would put a handle on the concept of "earned compensation" in order to keep it from having an adverse effect on the retirement system. He deferred to Bob Johnson, Administrator of the Teachers' Retirement System, for further information.

Johnson endorsed Eudaily's remarks, saying that members of the system about ready to retire have found ways to inflate their earned compensation levels for the purposes of the three critical years used to compute retirement benefits. He said, for example, it is often arranged that a member soon to retire will arrange to have compensation for use of an automobile, or for fees for unrelated, extra-curricular activities. Another way is to take into account life insurance arrangements. Johnson said that because the benefits are figured on the three highest years of compensation that are consecutive, or the end of a member's career, the compensation level can be artificially inflated. He said the "imputed taxable value rises dramatically with wages." Johnson said it amounts to a source of unfunded liability to the system and the Legislature has a responsibility to curtail the problem.

Owen Nelson, representative of the Mountana Education Association, said he agreed about increasing the liability support mechanism. He said the MEA believes the benefit should be based on actual income that is actually contributed toward retirement by the system member.

NO OTHER PROPONENTS BEING HEARD, AND NO OPPONENTS BEING HEARD TO HOUSE BILL 169, CHAIRMAN BRAND CALLED FOR QUESTIONS BY COMMITTEE MEMBERS.

Rep. Walter Sales asked how this would work if any action to be taken by the Legislature could not by law be retroactive. Johnson said the measure was, indeed, prospective only, and he said this would not take away benefits from those already earning benefits at a particular level.

REPRESENTATIVE JERRY DRISCOLL raised the question of the matter of compensation for the presidents of various universities for a furnished home and groceries.

MINUTES OF THE MEETING OF THE HOUSE STATE ADMINISTRATION COMMITTEE
January 18, 1983
Page Four

REPRESENTATIVE BARDANOUE observed that "this bill is a take-away, not a give-away, right?" Rep. Eudaily agreed that it was. Rep. Bardanoue observed that the bill's summary provided by the Legislative Council researcher was confusing. He said he also shared Rep. Driscoll's concern about the university system's home and groceries. Rep. Bardanoue also observed that "the higher up you are, the less is taken away." Rep. Eudaily said that there are other forms of salary, and that school administrators get more in compensation than teachers.

REPRESENTATIVE JOE HAMMOND asked if the bill would allow extra-curricular activities, for which teachers are paid extra fees, to be counted. Johnson said the bill would take such considerations out.

REPRESENTATIVE GAY HOLLIDAY observed that the legislation is not a class issue, because some teachers, as well as university presidents, get housing. Rep. Eudaily agreed. Rep. Holliday said that teachers in colonies often get food. She asked if teachers in colonies were included as part of the Teachers' Retirement System. Johnson said they would be if the colony schools are public schools.

Rep. Sales observed that some schools in Gallatin County furnish housing.

REPRESENTATIVE LLOYD MCCORMICK noted that no matter what "fringe benefits" are, they all come out of a teacher's pay.

Rep. McBride asked if housing by school districts is considered now in computation of earned compensation for retirement purposes. Johnson said that it is counted as a wage in kind if it is declared by the individual members. "Whether they are paying on it is up to them," Johnson said. Rep. McBride said the matters of a car and life insurance are those taken care of by the bill.

REPRESENTATIVE GLENN MUELLER asked how many teachers have teacherages. Johnson said he did not know.

Chairman Brand observed that some teachers pay rent to school districts when they are provided teacherages.

REPRESENTATIVE FRANCIS KOEHNKE said that districts ought to charge teachers for housing and then raise salaries by the same amount.

Rep. Bardanoue asked what the fiscal impact of the bill would be. Johnson said he was not exactly sure. He said that in the future, it would help the unfunded liability of the system from increasing.

MINUTES OF THE MEETING OF THE HOUSE STATE ADMINISTRATION COMMITTEE
January 18, 1983
Page Five

REPRESENTATIVE JOHN RYAN said that in Garfield County, school boards do not charge for teacherages.

Rep. Bardanouve said that when teachers pay for housing, it is not a fringe benefit.

Rep. Driscoll asked how many members of the system claimed teacherages when they retire. Johnson said he did not know because it was not a separate reporting item.

Rep. Smith asked how the fund is funded. Johnson said that the pension payments are made from contributions and investments of the capital. Rep. Smith observed that no money is paid in by the members for life insurance and housing. He asked, "What's the problem if contributions are made?" Johnson said that typically, these contributions are made only for a period of three years in order to increase retirement benefits.

Rep. Holliday asked that if the bill passes and housing is considered a valid consideration, could the reporting system be changed to reflect teacherages. Johnson said it could.

THERE BEING NO FURTHER QUESTIONS FROM COMMITTEE MEMBERS, CHAIRMAN BRAND CLOSED THE HEARING ON HOUSE BILL 169.

EXECUTIVE SESSION

Chairman Brand brought the committee into Executive Session by calling for a motion on House Bill 169.

Rep. Holliday asked if more research was needed on the measure. Chairman Brand asked committee members if they would prefer that a subcommittee be appointed. Rep. Holliday said she would prefer to see language to cap the housing factor used by some members of the system. Rep. Hand said he wanted to pull the college presidents out of the measure as well. Rep. Bardanouve said that would be unfair to college presidents. Chairman Brand said a \$150 cap should be put on housing issues to take care of the problems. Chairman Brand asked if the committee wished to defer to Legislative Council researcher Lois Menzies for an amendment. Rep. Sales said that if a cap is placed on housing, wouldn't that be another way of encouraging use of the device, thus bringing about more abuse.

Rep. Driscoll said that a lot of teachers in the smaller schools do not know about the cost of housing and the fact that it can be used.

Rep. Solberg said he did not think that the cap would accomplish what the committee intends; he said the highly paid teachers and administrators would demand more salary and that in the long run salary payments would be higher.

MINUTES OF THE MEETING OF THE HOUSE STATE ADMINISTRATION COMMITTEE
January 18, 1983
Page Six

Chairman Brand said the problem is that some members are using the last three years of their service to boost retirement payments out of proportion to what they are entitled to during their periods of contribution to the system.

Rep. Smith suggested putting a \$150 cap on housing issues in order to persuade more system members to pay income taxes on the housing benefit they receive.

Rep. Holliday MOVED to have an amendment drawn to place a cap of \$150 on housing factors. Rep. Koehnke SECONDED.

Rep. Bardonoue said he was not sure that \$150 is a fair figure. Rep. Sales said the way to solve the problem is to change the three-year period for computation of benefits to 20 years and "not worry about it."

Rep. Hand MOVED a substitute motion for a \$150 cap. Chairman Brand reminded him that that was the motion.

The questions was called and the motion carried by voice vote, Reps. Sales, Mueller, and Hand voting "no."

HOUSE BILL 167

Rep. Sales MOVED DO PASS. Rep. Mueller SECONDED. The question was called and the motion carried by unanimous voice vote.

HOUSE BILL 173

Rep. Bardonoue MOVED DO PASS Rep. Sales SECONDED. The question was called and the MOTION CARRIED by unanimous voice vote.

HOUSE BILL 154

Rep. Driscoll MOVED to adopt all amendments. Rep. Hammond SECONDED.

Chairman Brand answered a question by Rep. McBride that the State Lands Department agrees with the amendment.

The question was called and the MOTION CARRIED by unanimous voice vote. The amendment was adopted.

Rep. Hammond MOVED DO PASS House Bill 154 as amended. Rep. Smith seconded. The question was called and the MOTION CARRIED by unanimous voice vote.

HOUSE BILL 169

REP. HAND MOVED the proposed amendment to House Bill 169 to place a \$150 cap on the use of housing allowance in the computation of retirement benefits. REP. KOEHNKE SECONDED.

Rep. Driscoll said a housing allowance is not considered income in small districts; as a result, he said, it would help only the highly paid administrators and university presidents. Rep. Hand said this was a cap of \$150 and will not help the higher-paid individuals such as university presidents. Rep. Driscoll said, however, the existence of the cap would serve as a flag to convince people to use the housing allowance.

The question being called, the MOTION CARRIED by voice vote. Representatives Sales, Smith and McBride voting "NO."

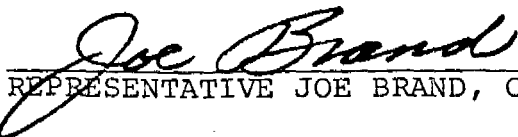
REP. HAND MOVED House Bill 169 DO PASS AS AMENDED, REP. KOEHNKE SECONDED.

Rep. Driscoll noted the committee was fixing a value for housing but was exempting other benefits. He said that amounted to treating people who get housing allowances in a special fashion. Chairman Brand said what the committee was doing was limiting use of the housing allowance by higher-paid officials. Rep. Smith said fringe benefits should not be counted at all.

Rep. Sales said the real problem is the three-year consecutive computation period. He said a period of 20 years should be used.

The question being called, the MOTION CARRIED by voice vote. Representatives Smith and Driscoll voting "NO." House Bill 169 was reported out as DO PASS AS AMENDED.

REPRESENTATIVE McBRIDE MOVED, REPRESENTATIVE HAMMOND SECONDED, ADJOURNMENT.


REPRESENTATIVE JOE BRAND, Chairman

STANDING COMMITTEE REPORT

JANUARY 19X 20, 19 83

MR. SPEAKER

We, your committee on HOUSE STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 169

first reading over (white) color

"AN ACT CLARIFYING AND REVISING THE DEFINITION OF EARNED COMPENSATION FOR THE TEACHERS' RETIREMENT SYSTEM; AMENDING SECTION 19-4-101, MCA; AND PROVIDING AN EFFECTIVE DATE."

HOUSE Bill No. 169
Respectfully report as follows: That.....

1. Page 3, line 24.

Following: "employer"

Insert: "up to a maximum of \$150 a month"

AND AS AMENDED

DG-RASS—

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

March 3, 1983

The thirty-ninth meeting of the Senate State Administration Committee was called to order by Senator Pete Story, Chairman on March 2, 1983 at 10:00 a.m. in room 331 of the State Capitol Building in Helena, Montana.

ROLL CALL: Senator Tveit and Senator Marbut were absent.

CONSIDERATION OF HOUSE BILL 169:

"AN ACT CLARIFYING AND REVISING THE DEFINITION OF EARNED COMPENSATION FOR THE TEACHERS' RETIREMENT SYSTEM: AMENDING SECTION..."

REPRESENTATIVE SCHULTZ introduced this bill for the sponsor REPRESENTATIVE EUDAILY who was called away because of family illness. The introduction to this bill is shown as EXHIBIT 1. He presented an amendment, EXHIBIT 2.

PROPOSERS:

BOB JOHNSON with the teacher's retirement system testified that currently when a member is disabled during a school year he is allowed to use a total salary pay or compensation received had he completed the whole school year. This has always been interpreted to be limited to the salary plus any vacation or sick leave that was paid by the employer at the time of the disability. We have had a dispute with an employee who claimed sick leave and stated that they do not know how much sick leave he would have claimed because the employer said he had taken no sick leave or vacation. They submitted it to the attorney general and were under the opinion it would be ruled in their favor but under the discretion of the attorney general's office we find it probably will not be so therefore they are planning to take action.

IRV DAYTON, Commissioner of Higher Education, spoke as a proponent to this bill as introduced in the House. He said that it cleans up the problems, however, we are asking for the deletion of "up to the maximum of \$150 a month" on page 3, line 24, and if this cannot be done we are asking the bill be killed and start over again. The reason for this is that the subject was never discussed in the hearing in the House but came up in the work session and the amendment was added. This seems to point at a particular university professor but they do not know the impact. There are about 900 employees that would feel the impact.

STATE ADMINISTRATION

March 3, 1983

Page 2

Irv Dayton did express the fact that each campus has a president's house that the president must live in. This does not leave the president a choice of homes; if they have sold their home, they are stuck with a tax problem. They do get some advantages, it is rent free, utilities paid, normally partially furnished and provides a place to do whatever is necessary to do in respect to the job. Besides the first mentioned disadvantages, there is the wear and tear of personal belongings due to a much visited home that is almost public with the presidents wife as a free hostess.

He stated that this has a fiscal impact and if the amendment stays in, you are reducing the retirement pay. Some of the other presidents are very marketable and he would not like to give them message that their work in the state of Montana is not appreciated.

JEFF MORRISON, representing the Board of Regents, stated that when they interviewed these people they offered them certain benefits and to do something retroactive is something we would not like to do.

OPPONENTS: None

QUESTIONS OF THE COMMITTEE:

SENATOR TOWE does earned compensation mean. full compensation pay or salary paid to a member and reported to a retirement system, including amount paid under a salary reduction agreement.

BOB JOHNSON said that this means they have simply signed up for a tax shelter which means a certain percent of their income would still be required on the gross amount of their salary rather than their salary reduced rate. He said they do not like to have the value of a car included.

SENATOR TOWE said that he takes it that that does not counter-man the negotiated salary reduction, and suggested that he put in an amendment..that he does not think it helps his car situation. We should start out that sentence by saying "except housing and negotiated salary reduction provided in the previous sentence" is not included. Senator Towe asked what they are talking about in terms of "allocation".

IRV DAYTON said that they upgrade that every year and try to adjust that to the market.. it ranges from \$650 at the two. university, \$600 Eastern, \$550 Tech, \$500 at Northern and Western.

STATE ADMINISTRATION
March 3, 1983
Page 3

SENATOR TOWE asked if that is adjusted to what you would say is an off-set for public use.

IRV DAYTON said that was certainly part of it. If someone came in & bought a private resident or rented something and thought they were expected to entertain, they would be paying at least this much money.

SENATOR HAMMOND asked for verification if it is on that amount that they pay into teacher's retirement.

IRV DAYTON said it was, right from the day of employment, and the employer pays. Actuarially there is no impact.

REPRESENTED SCHULTZ closed and said that he cannot give the history of how that amendment got in.

CONSIDERATION OF HOUSE BILL 78:

"AN ACT AMENDING SECTION 2-15-1009, MCA, TO ADD A RETIRED PUBLIC EMPLOYEE TO THE PUBLIC EMPLOYEES' RETIREMENT BOARD; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

REPRESENTATIVE HARPER, District 30, introduced H.B.78 by saying that the public employees' retirement board is a quasi-judicial board composed of five members which oversees seven retirement systems administered by the PERS and the Department of Administration. The board is now composed of three public employee members and two members at large. There is no requirement in the law that any member be a member of a retirement system and that does not seem to make sense. They must look as disabilities to see if they are justified, review the laws of the system, review proposed legislation and propose legislation themselves and most important, they are public relations people.

PROPONENTS:

JOE ROBERTS, representing the Association of Montana Retired Public Employees and representing Montana Public Employees Association for Tom Schneider who could not be here today. Mr. Roberts said he would emphasize the nature of the board is advisory. The system is set by legislation. It does make sense that some member from the people currently receiving the benefits. There was some concern about the six members being an even number but the board is pretty much advisory.

JOHN HALE, a member and first vice president of the association, stated they would like to be represented and they would not like to be caught like social security is.

STATE ADMINISTRATION
March 11, 1983
Page 3

REPRESENTATIVE GENE ERNST, District 47, introduced this bill by saying it was a request to congress not to have undermanements to their bills. He said that people in his area brought this to his attention. Those especially in the trucking industry that didn't know what was happening.

PROPOSERS: None

OPPOSERS: None

QUESTIONS OF THE COMMITTEE: None

ACTION ON HOUSE JOINT RESOLUTION 26:
SENATOR LEE MOVED H.J.R.26 BE CONCURRED IN.
MOTION PASSED.

EXECUTIVE ACTION:

ACTION ON HOUSE BILL 83: (Election Polls)
SENATOR MANNING MOVED AN AMENDMENT to strike "100" on line 13 and put in "300".
MOTION PASSED.

SENATOR MARBUT MOVED H.B.83 BE CONCURRED IN AS AMENDED.
MOTION PASSED. Senator Marbut will carry this bill. (Manning-No)

ACTION ON HOUSE BILL 169: (Compensation for teachers)

Discussion was held on this bill and there was a concern about those that would try to boost their retirement in the last few years. Dave Cogley said that he talked to Mr. Johnson who said he would rather not mess with this for fear of drawing attention to it and that it has not been a problem here.

SENATOR MARBUT MOVED THE AMENDMENTS presented by Irving Dayton to strike "UP TO A MAXIMUM OF \$150 A MONTH"
MOTION PASSED.

SENATOR MANNING MOVED SENATOR TOWE's AMENDMENTS (EXHIBIT 2)
MOTION PASSED.

SENATOR MANNING MOVED THE PERS AMENDMENTS presented by Bob Johnson. (See EXHIBIT 2)
MOTION PASSED

SENATOR HAMMOND MOVED THAT HOUSE BILL 169 BE CONCURRED IN AS AMENDED.
MOTION PASSED. Senator Manning voted "no". Senator Hammond will carry this bill.

1. Page 3, line 22.

following: "agreement"

Insert:

tax sheltered annuity or deferred compensa-
tion program, " to a

2. Page 3, line 24.

Strike: " UP TO A MAXIMUM OF \$150 A MONTH "

3. Page 4, line 1.

Strike: "The"

Insert: "Except for amounts paid under a
salary reduction agreement or the
value of housing provided in this subsection,
the "

3. Page 4, line 11.

following: "year"

Insert: ", except that any termination pay,
as defined in subsection (5)(b), received
by the member is limited to the
amount actually paid, and is not
the amount he would have earned
had he completed the full year"

STANDING COMMITTEE REPORT

MARCH 11

1983

PRESIDENT

MR.

STATE ADMINISTRATION

We, your committee on

HOUSE

having had under consideration Bill No. 169

Eudaily (Hammond)

HOUSE

Respectfully report as follows: That Bill No. 169

third reading, be amended as follows:

1. Page 3, line 22.
Following: "agreement"
Insert: "to a tax sheltered annuity or deferred
compensation program,"
2. Page 3, line 24.
Strike: "UP TO A MAXIMUM OF \$150 A MONTH"
3. Page 4, line 11.
Following: "year"
Insert: ", except that any termination pay, as
defined in subsection (5)(b), received by
the member is limited to the amount actually
paid, and is not the amount he would have
earned had he completed the full year"

And, as so amended

BE CONCURRED IN

~~XXXXXXX~~